

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NICHOLAS TRIPODES and MARIA	)	
TRIPODES,	)	
	)	2:18cv1131
Plaintiff,	)	Electronic Filing
	)	
v.	)	Judge David Stewart Cercone
	)	Magistrate Judge Maureen P. Kelly
NVR, INC. <i>trading as</i> HEARTLAND	)	
HOMES OF PA, RITE RUG CO. <i>doing</i>	)	
<i>business as</i> RITE RUG FLOORING, and	)	ECF No. 11
ARMSTRONG FLOORING, INC.	)	
	)	
Defendants.	)	

**ORDER OF COURT**

AND NOW, this 12th day of February, 2019, after Plaintiffs Nicholas Tripodes and Maria Tripodes (“Plaintiffs”) filed an action in the above-captioned case, and after a Motion to Dismiss was filed by Defendant NVR, Inc., ECF No. 11, and after a Report and Recommendation was filed by the United States Magistrate Judge, ECF No. 36, and upon consideration of the Objections filed by Plaintiffs, ECF No. 37, and the response to the Objections submitted by Defendant NVR, Inc., ECF No. 38, and upon independent review of the record, and upon consideration of the Magistrate Judge’s Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that the Motion to Dismiss, ECF No. 11, is denied as to Plaintiffs’ claims for Breach of Contract (Count I) and Breach of Warranty (Count III), granted as to Plaintiffs’ claim pursuant to the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201.1 et seq., and denied as to Plaintiffs’ claims for consequential or incidental damages.

s/ DAVID STEWART CERCON  
David Stewart Cercone  
Senior United States District Judge

cc: Honorable Maureen P. Kelly,  
United States Magistrate Judge  
Michael J. Cremonese, Esquire  
Alexandra Farone, Esquire  
Kathleen A. Gallagher, Esquire  
Carolyn Batz McGree, Esquire  
Russell D. Giancola, Esquire  
Peter N. Georgiades, Esquire  
Victor D. Radel, Esquire

*(Via CM/ECF Electronic Mail)*